

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

Civil Action No. 09-CV-1213-ACT-LFG

HEALTH CARE SERVICES CORPORATION,

Plaintiff,

v.

SOUTHWEST TRANE and  
PETERSON WATER TREATMENT,

Defendants.

**PLAINTIFF'S OBJECTIONS TO DEFENDANTS' PROPOSED TRIAL EXHIBITS**

COMES NOW Plaintiff Health Care Services Corporation ("HCSC"), by and through its attorneys, and objects to the proposed trial exhibits of Defendants Peterson Water Treatment ("Peterson") and Southwest Trane ("Trane") as follows:

| <b>OBJECTIONS TO DEFENDANT PETERSON WATER TREATMENT'S<br/>PROPOSED TRIAL EXHIBITS</b> |                          |                             |  |
|---|--------------------------|-----------------------------|--|
| <b>Date</b>   | <b>Exhibit/Bates No.</b> | <b>Peterson Description</b> | <b>FM Objection/Comments</b>   |
| 1/11/2007   | TRANE 340-342            | Request for Information     | Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Relevance (F.R.E. 401, 402, 403, NMRA 11-401, 402,403)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. |
| 6/25/2007   | HCSC 903-904             | E-mail chain                | No objection   |
| 6/28/2007   | HCSC 1599                | Trane Service Report        | No objection   |
| 8/13/2007   | HCSC 894                 | E-mail                      | No objection   |
| 8/17/2007   | HCSC 1597                | Trane Service Report        | No objection   |
| 10/4/2007   | HCSC 1594                | Trane Service Report        | No objection   |
| 10/19/2007  | HCSC 1587                | Trane Service Report        | No objection   |

| <b>OBJECTIONS TO DEFENDANT PETERSON WATER TREATMENT'S<br/>PROPOSED TRIAL EXHIBITS</b> |                          |                             |  |
|---|--------------------------|-----------------------------|--|
| <b>Date</b>   | <b>Exhibit/Bates No.</b> | <b>Peterson Description</b> | <b>FM Objection/Comments</b>   |
| 11/11/2007  | HCSC 1558                | Trane Service Report        | No objection   |
| 11/16/2007  | HCSC 1573                | Trane Service Report        | No objection   |
| 11/19/2007  | TRANE 334                | E-mail                      | Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Relevance (F.R.E. 401, 402, 403, NMRA 11-401, 402,403)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. |
| 11/20/2007  | HCSC 1556                | Trane Service Report        | No objection   |
| 4/29/2008   | HCSC 1535                | Trane Field Report          | No objection   |
| 4/30/2008   | TRANE 305-306            | E-mail chain                | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.   |
| 6/16/2008   | HCSC 1532                | Trane Field Report          | Illegible  |
| 6/17/2008   | HCSC 1531                | Trane Field Report          | Illegible  |
| 7/2/2008  | TRANE 29                 | Letter                      | No objection   |
| 7/3/2008  | HCSC 688                 | E-mail chain                | No objection   |
| 7/3/2008  | HCSC 1184-1187           | E-mail chain                | No objection   |

| <b>OBJECTIONS TO DEFENDANT PETERSON WATER TREATMENT'S<br/>PROPOSED TRIAL EXHIBITS</b> |  |                                   |   |
|---|--|-----------------------------------|---|
| <b>Date</b>   | <b>Exhibit/Bates No.</b>                           | <b>Peterson Description</b>       | <b>FM Objection/Comments</b>  |
| 7/11/2008   | HCSC 1006-1015                                     | Letter                            | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. |
| 7/17/2008   | HCSC 172-173                                       | Letter                            | No objection  |
| 7/18/2008   | HCSC 271-277                                       | BCBSNM Facilities Incident Report | No objection  |
| 8/22/2008   | HCSC 141   | E-mail chain                      | Object to portions that reference to HCSC's insurance carrier.<br>No objection to version redacted and proposed by HCSC, removing references to HCSC's insurance carrier, FM Global   |
| 8/18/2008   | HCSC 1895  | E-mail                            | Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)<br>Communication occurs after events at issue in this trial.   |
| 10/9/2009   | HCSC 1873-1874                                     | E-mail chain                      | Hearsay (F.R.E. 801, 802 & NMRA 801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)<br>Communication occurs after events at issue in this trial.   |
| Undated   | HCSC 1827-1830<br>HCSC 1832-1833<br>HCSC 1835-1847 | BCBS Offsite Alarm Report         | No objection  |
| Undated   | TRANE 359-362                                      | Letter w/attachments              | Hearsay (F.R.E. 801, 802 & NMRA 801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.   |

| <b>OBJECTIONS TO DEFENDANT PETERSON WATER TREATMENT'S<br/>PROPOSED TRIAL EXHIBITS</b> |                               |  |   |
|---|-------------------------------|--|---|
| <b>Date</b>   | <b>Exhibit/Bates No.</b>      | <b>Peterson Description</b>                    | <b>FM Objection/Comments</b>  |
| Undated   | Produced by<br>Bradbury Stamm | Training Video                                 | No objection  |
| Undated   | Exhibit Attached              | Demonstrative of July 13,<br>2008 RTU-2 Faults | Completeness (F.R.E. 106, NMRA 106)<br>Misleading, misstates evidence, and<br>confusing<br>Not all incidents recorded on the report from<br>which this information originates is a fault.<br>Jury may also conclude from this document<br>that each purported "fault" represents an<br>attempt to restart the system, which is<br>inaccurate. |
| Undated   | Exhibit Attached              | Demonstrative of the RTU<br>unit.              | No objection  |
| Undated   | Supplemented                  | Demonstrative –<br>Schematic                   | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |
| 7/6/2010  | Exhibit Attached              | Photograph                                     | No objection  |

[illegible]

| <b>OBJECTIONS TO DEFENDANT PETERSON WATER TREATMENT'S<br/>PROPOSED TRIAL EXHIBITS</b> |                          |                             |                              |
|---|--------------------------|-----------------------------|------------------------------|
| <b>Date</b>   | <b>Exhibit/Bates No.</b> | <b>Peterson Description</b> | <b>FM Objection/Comments</b> |
| 7/6/2010  | Exhibit Attached         | Photograph                  | No objection                 |
| 7/6/2010  | Exhibit Attached         | Photograph                  | No objection                 |
| 7/6/2010  | Exhibit Attached         | Photograph                  | No objection                 |
| 7/6/2010  | Exhibit Attached         | Photograph                  | No objection                 |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |  |  |
|--|--------------------|--|--|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>   | <b>Objection by FM/Comments</b>  |
|  |                    | Service Agreement<br>[Trane 00002 - 27]                                  | No objection   |
|  |                    | Exhibit B, Service Agreement (Exclusion of Dolphin System) [Trane 00100] | Completeness (F.R.E. 106, NMRA 106)<br>Exclusion of Agreement is included in HCSC's proposed Service Agreement exhibit.  |
|  |                    | 12/14/06 email from Liz Carrillo to Mark McKee [Trane 00356]             | No objection   |
|  |                    | 05/01/07 email from Mark McKee to Tom Payne [Trane 00354]                | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Relevance (F.R.E. 401, 402, 403, NMRA 11-401, 402,403)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. |
|  |                    | 05/05/08 email from Mark McKee to Edwin Wales [HCSC 000935]              | No objection   |
|  |                    | 06/28/07 email from Mark McKee to Jason Foundas [Trane 00349]            | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.   |

**OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S  
PROPOSED TRIAL EXHIBITS**

| PLF<br>NO. | DEF<br>NO. | Trane Description  | Objection by FM/Comments  |
|------------|------------|--|---|
|            |            | 7/13/07 email from Mark McKee to Liz Carrillo [HCSC 00967 - 968]               | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. |
|            |            | 07/17/07 email exchange between Mark McKee and Liz Carrillo [HCSC 00959]       | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. |
|            |            | 10/1/07 email from Mark McKee to Liz Carrillo and Dan Lyons [HCSC 00298 - 300] | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. |
|            |            | 10/26/07 email from Mark McKee to njs@clearwater-dolphin.com [Trane 00336]     | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.  |
|            |            | 11/19/07 email from Mark McKee to jwd@clearwater-dolphin.com [Trane 00334]     | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.  |
|            |            | 05/09/08 email from Mark McKee to Edwin Wales [HCSC 000419 - 420]              | No Objection  |

**OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S  
PROPOSED TRIAL EXHIBITS**

| PLF<br>NO. | DEF<br>NO. | Trane Description   | Objection by FM/Comments  |
|------------|------------|---|---|
|            |            | 07/07/08 email from Gary Wilkinson to Mark McKee [HCSC 000139]  | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.  |
|            |            | 07/29/08 email exchange between Edwin Wales and Mark McKee [Trane 00288]                                    | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. Further, the correspondence occurs after events at issue in this trial.                |
|            |            | 08/14[sic]/08 email from Gary Wilkinson to Liz Carrillo [HCSC 000119]                                       | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Prejudicial (F.R.E. 403, NMRA 11-403)<br>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)<br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Further, the correspondence occurs after events at issue in this trial. |
|            |            | 12/06/05 and 12/02/05 letters between Trane and Miller Bonded (3 pages) [Bradbury Stamm Subpoena, attached] | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.  |
|            |            | 05/22/07 email from Paul Meany to Gael Syoen [HCSC 001735 – 1736]   | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. Further, the email at the top of the page pre-dates the email to which Trane refers in its description, so it could not have been received by any anticipated trial witness.                                      |



**OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S  
PROPOSED TRIAL EXHIBITS**

| PLF<br>NO. | DEF<br>NO. | Trane Description  | Objection by FM/Comments   |
|------------|------------|--|--|
|            |            | 06/25/07 email exchange among Gael Syoen, Dan Lyons, Liz Carrillo, Jason Foundas, and Paul Meany [HCSC 000559 – 560] | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802) Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Limited portion authored by anticipated trial witness is only admissible portion.                                   |
|            |            | 06/25/07 email exchange among Jason Foundas, Paul Meany, and Dan Lyons [HCSC 000901 – 902]                           | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802) Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. |
|            |            | 06/25/07 email exchange between Liz Carrillo and Paul Meany [HCSC 000903 - 904]                                      | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802) Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)   |
|            |            | 06/25/07 email from Liz Carillo [HCSC 001695 - 1696]   | No objection to first page.<br><br>Second page:<br>Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802) Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Completeness (F.R.E. 106, NMRA 11-106)  |
|            |            | 07/09/07 email from Dan Lyons to Liz Carrillo [HCSC 001674]  | No objection   |
|            |            | 07/11/07 email from Liz Carrillo to Gael Syoen [HCSC 000895]   | No objection   |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |   |   |
|--|--------------------|---|---|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>  | <b>Objection by FM/Comments</b>   |
|  |                    | 04/15/08 email exchange between Eric Webster and Edwin Wales [HCSC 001299]        | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Completeness (F.R.E. 106, NMRA 11-106) Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Email chain starts @ HCSC 1297 and ends at HCSC 1300.<br>Author of email may not testify at trial.  |
|  |                    | 04/28/08 email exchange between Edwin Wales and Eric Webster [HCSC 001022 - 1023] | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Completeness (F.R.E. 106, NMRA 11-106)<br>Document's completeness is nearly resolved with email in above entry; only addition is confirmation of receipt by unexpected trial witness.   |
|  |                    | 05/19/08 email from Dan Lyons to Edwin Wales [HCSC 000417]                        | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Author of email is not anticipated witness at trial to establish the truth of the matter asserted.   |
|  |                    | 06/30/08 email from Edwin Wales to Paul Meany [HCSC 000810 - 811]                 | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Author of email is not anticipated witness at trial to establish the truth of the matter asserted.   |
|  |                    | 07/03/08 email from Edwin Wales to Liz Carrillo [HCSC 000806]                     | No objection  |
|  |                    | 07/03/08 email from Paul Meany to Hill Mechanical [HCSC 001616]                   | No objection to top portion of email<br>Bottom portion of email:<br>Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Author of email is not anticipated witness at trial to establish the truth of the matter asserted.                               |
|  |                    | 07/03/08 email from Paul Meany to Bud Spiewak [HCSC 001706 - 1707]                | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br>Cumulative (F.R.E. 403, NMRA 11-403)<br>Relevance (F.R.E. 401, 402, 403, NMRA 11-401, 402,403)<br>Author of email is not anticipated witness at trial to establish the truth of the matter asserted. |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |   |   |
|--|--------------------|---|---|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>  | <b>Objection by FM/Comments</b>   |
|  |                    | 07/03/08 to 07/09/08 emails from Eric Webster to Liz Carrillo [Exhibit 10 to deposition of Liz Carrillo]  | Completeness (F.R.E. 106, NMRA 11-106)<br><br>Authenticity (F.R.E. 403, NMRA 11-403) Misleading, Confusing; The email string has been re-arranged from its original formatting.   |
|  |                    | 07/03/08 to 07/09/08 emails from Eric Webster to Liz Carrillo [Exhibit 10A to deposition of Liz Carrillo] | No objection  |
|  |                    | 07/11/08 email from Liz Carrillo [HCSC 001701]  | No objection  |
|  |                    | 07/11/08 letter to Liz Carrillo from Industrial Water Engineering, Inc. [HCSC 001006 – 1013]              | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802) Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author.  |
|  |                    | 07/13/08 email from Liz Carrillo [HCSC 001603]  | No objection  |
|  |                    | 07/21/08 email between Eric Webster and Liz Carrillo [HCSC 001150]  | No objection  |
|  |                    | 08/06/08 email from Matt Villanueva to Liz Carrillo [HCSC 000002]   | No objection  |
|  |                    | 08/12/08 email from Gary Wilkinson to Liz Carrillo [HCSC 000123]  | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802) Prejudicial (F.R.E. 403, NMRA 11-403) Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)<br><br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Further, the correspondence occurs after events at issue in this trial. |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |  |   |
|--|--------------------|--|---|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>   | <b>Objection by FM/Comments</b>   |
|  |                    | 08/13/08 email from Conway Nickerson (BCBS) to Gael Syoen [HCSC 000460]        | <p>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)</p> <p>Hearsay (F.R.E. 801, 802 &amp; NMRA 11-801, 802)<br/>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 &amp; NMRA 11-104)</p> <p>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Further, the correspondence occurs after events at issue in this trial.</p>                 |
|  |                    | 08/22/08 email exchange between Matt Villanueva and Liz Carrillo [HCSC 000107] | <p>Object to portions that reference to HCSC's insurance carrier.</p> <p>No objection to version redacted and proposed by HCSC, removing references to HCSC's insurance carrier, FM Global</p>  |
|  |                    | 09/03/08 email exchange between Gael Syoen and Liz Carrillo [HCSC 000445]      | <p>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)</p> <p>Earlier email - Hearsay (F.R.E. 801, 802 &amp; NMRA 11-801, 802)<br/>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 &amp; NMRA 11-104)</p> <p>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Further, the correspondence occurs after events at issue in this trial.</p> |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |  |   |
|--|--------------------|--|---|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>   | <b>Objection by FM/Comments</b>   |
|  |                    | 09/03/08 email from Gael Syoen to Liz Carrillo [HCSC 000446]   | <p>Duplicate of previous entry</p> <p>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)</p> <p>Earlier email - Hearsay (F.R.E. 801, 802 &amp; NMRA 11-801, 802)</p> <p>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 &amp; NMRA 11-104)</p> <p>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Further, the correspondence occurs after events at issue in this trial.</p> |
|  |                    | 09/23/08 email exchange between Eric Webster and Liz Carrillo [HCSC 001266]                                | No objection  |
|  |                    | 01/01/09 email from Veronica Romero to Liz Carrillo [HCSC 001198]  | No objection  |
|  |                    | 10/09/09 emails between Liz Carrillo and Edwin Wales and Gael Syoen and Andrew Pini Carrillo [HCSC 001873] | No objection  |
|  |                    | 01/03/06 Custom Air Handling Unit Clarifications and Exceptions [Bradbury Subpoena, attached]              | <p>Hearsay (F.R.E. 801, 802 &amp; NMRA 11-801, 802)</p> <p>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 &amp; NMRA 11-104)</p> <p>Confusing and Prejudicial (F.R.E. 403, NMRA 11-403)</p> <p>Duplicates Service Agreement provisions and unknown notes on document.</p>   |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |  |   |
|--|--------------------|--|---|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>   | <b>Objection by FM/Comments</b>   |
|  |                    | 01/25/08 Hill Mechanical<br>Field Report -Paul Meany<br>[001709 – 1711]                    | Relevance (F.R.E. 401, 402, 403, NMRA 11-401, 402,403)<br><br>Cumulative and Prejudicial (F.R.E. 403, NMRA 11-403<br><br>No anticipated witness at trial will be able to testify as to<br>information contained in correspondence or documents. |
|  |                    | 05/18/07 Southwest<br>Trane AHU Sheet<br>[HCSC 001562 – 1569]                              | Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA<br>11-104)<br><br>Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)  |
|  |                    | 06/28/07 Trane Service<br>Report<br>[HCSC 001600]  | No objection  |
|  |                    | 07/03/08 Bid from<br>Southwest Trane To Blue<br>Cross Blue Shield<br>[HCSC 001207 –1209]   | No objection  |
|  |                    | 07/03/08, Bid from SW<br>Trane to Blue Cross Blue<br>Shield [HCSC 001195 –<br>1197]        | No objection  |
|  |                    | 07/17/08 Cooling tower<br>cleaning report [Exhibit<br>22 to deposition of Liz<br>Carrillo] | No objection  |
|  |                    | 07/19/07 Bradbury<br>Stamm meeting minutes<br>[HCSC 001716 – 1717]                         | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br><br>Recipient is only anticipated trial witness, and she will not<br>be able to establish the truth of the matters asserted by<br>non-testifying third-party author.                            |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |  |   |
|--|--------------------|--|---|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>   | <b>Objection by FM/Comments</b>   |
|  |                    | 08/15/08 Pure Water Solutions water treatment proposal [HCSC 000451 – 454]       | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br><br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>Subsequent Remedial Measures (F.R.E. 407, NMRA 11-407)<br><br>Prejudicial (F.R.E. 403, NMRA 11-403<br><br>Recipient is only anticipated trial witness, and she will not be able to establish the truth of the matters asserted by non-testifying third-party author. Further, the correspondence occurs after events at issue in this trial. |
|  |                    | 08/22/07 Service Quote from Sigler [HCSC 000944 - 945]                           | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br><br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents.  |
|  |                    | 10/19/07, 11/16/07, 11/21/07 Trane Service Reports [HCSC 001554; 001573; 001587] | No objection  |
|  |                    | Alarms Summary [HCSC 001757 – 1843]  | No objection  |
|  |                    | BCBS cooling tower cleaning procedures drafted by Erik Fritz [HCSC 000143]       | No objection  |
|  |                    | 07/18/08 BCBSNM Facilities Incident Report [HCSC 000271 – 277]                   | No objection  |

| <b>OBJECTIONS TO DEFENDANT SOUTHWEST TRANE'S<br/>PROPOSED TRIAL EXHIBITS</b> |                    |  |  |
|--|--------------------|--|--|
| <b>PLF<br/>NO.</b>   | <b>DEF<br/>NO.</b> | <b>Trane Description</b>   | <b>Objection by FM/Comments</b>  |
|  |                    | Dolphin Water Care<br>Memorandum to BCBS<br>[Trane 00281 - 284]  | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br><br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. |
|  |                    | Industrial Water<br>Engineering, Inc. water<br>usage chart [HCSC<br>000121]                                    | Hearsay (F.R.E. 801, 802 & NMRA 11-801, 802)<br><br>Foundation (F.R.E. 104, 602, 901, 803(6), 1006 & NMRA 11-104)<br><br>No anticipated witness at trial will be able to testify as to information contained in correspondence or documents. |
|  |                    | Purchase Order request,<br>correspondence<br>[HCSC 001198 - 1199;<br>1201 - 1203]                              | No objection   |
|  |                    | Video excerpt from<br>Bradbury Stamm training<br>Video 34:00 – 38:00<br>[Bradbury Stamm<br>subpoena, attached] | No objection   |
|  |                    | Demonstrative Exhibits –<br>Line Drawing HVAC Unit;<br>Timeline; Enlargements of<br>Exhibits                   | No objection   |
|  |                    | Hand-drawn<br>Demonstrative Exhibit  | Confusing and Misleading; Inaccurate (F.R.E. 403, NMRA 11-403)<br><br>Should be replaced with Peterson's proposed demonstrative exhibit.   |



Respectfully submitted this 28<sup>th</sup> day of January, 2011.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28<sup>th</sup> day of January, 2011, I filed the foregoing PLAINTIFF'S OBJECTIONS TO DEFENDANTS' PROPOSED TRIAL EXHIBITS electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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